

ESTTA Tracking number: **ESTTA350718**

Filing date: **06/02/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Habitat for Humanity International, Inc.
Granted to Date of previous extension	06/02/2010
Address	270 Peachtree Street, NW, Suite 30303 Atlanta, GA 30303 UNITED STATES

Attorney information	Lauren T. Estrin Kilpatrick Stockton LLP 1100 Peachtree Street NESuite 2800 Atlanta, GA 30309 UNITED STATES tadmin@kilpatrickstockton.com, afonoroff@kilpatrickstockton.com, lestrin@kilpatrickstockton.com, hharp@habitat.org,rgordon@kilpatrickstockton.com Phone:404-815-6500
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Applicant Information

Application No	77821343	Publication date	02/02/2010
Opposition Filing Date	06/02/2010	Opposition Period Ends	06/02/2010
Applicant	Fletcher, Tamera Z. 28445 Jolly Roger Dr Little Torch Key, FL 33042 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2009/03/01 First Use In Commerce: 2009/03/08
All goods and services in the class are opposed, namely: Providing a web site that features an on-line market for users to list offered or wanted personal and business assets and skills for hire, rent, sale or auction transacted on the basis of predefined performance and closing terms and conditions


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	2169719	Application Date	08/18/1997
Registration Date	06/30/1998	Foreign Priority	NONE


		Date	
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1975/10/00 First Use In Commerce: 1975/10/00 charitable fund raising services		

U.S. Registration No.	2976273	Application Date	08/05/2004
Registration Date	07/26/2005	Foreign Priority Date	NONE
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1977/00/00 First Use In Commerce: 1977/00/00 series of books featuring inspiration essays about building a fulfilling and productive life and a series of books on the history of the applicant and its work around the world</p> <p>Class 025. First use: First Use: 1995/00/00 First Use In Commerce: 1995/00/00 Shirts, sweaters, pants, shorts, coats and jackets, footwear, caps, hats, bandanas, children's cloth eating bibs, coveralls, foul weather gear, gloves, hat bands, head bands, headwear, infantwear, jumpers, kerchiefs, loungewear, neckerchiefs, neckties, neckwear, overalls, pajamas, pocket squares, rainwear, scarves, sleepwear, socks, sweat bands, sweat suits, ties, tracksuits, uniforms, vests, visors, warm-up suits and wrist bands</p>		

U.S. Registration No.	1473529	Application Date	05/18/1987
Registration Date	01/19/1988	Foreign Priority Date	NONE
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 037. First use: First Use: 1975/10/00 First Use In Commerce: 1975/10/00 RENOVATION AND CONSTRUCTION OF RESIDENTIAL HOUSING FOR THE NEEDY		

U.S. Registration	3370179	Application Date	07/09/2004
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No.			
Registration Date	01/15/2008	Foreign Priority Date	NONE
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	The mark consists of three figures forming a house with the words HABITAT FOR HUMANITY below the design.		
Goods/Services	<p>Class 025. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Shirts, jackets, caps, hats, children's cloth eating bibs, headwear, infantwear, rainwear, visors</p> <p>Class 036. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Charitable fund raising services and mortgage lending services</p> <p>Class 037. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Renovation and construction of residential housing</p>		

U.S. Registration No.	3340897	Application Date	07/09/2004
Registration Date	11/20/2007	Foreign Priority Date	NONE
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	The mark consists of three figures forming a house with the words HABITAT FOR HUMANITY adjacent to the design.		
Goods/Services	<p>Class 025. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Shirts, jackets, caps, hats, children's cloth eating bibs, headwear, infantwear, rainwear, visors</p> <p>Class 036. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Charitable fund raising services and mortgage lending services</p> <p>Class 037. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Renovation and construction of residential housing</p>		

Attachments	78462748#TMSN.jpeg (1 page)(bytes) 78448424#TMSN.gif (1 page)(bytes) 78448417#TMSN.gif (1 page)(bytes) Notice of Opposition.pdf (13 pages)(141198 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Lauren T. Estrin/
Name	Lauren T. Estrin
Date	06/02/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

HABITAT FOR HUMANITY)	
INTERNATIONAL, INC.,)	In re Serial No. 77/821343
)	
Opposer,)	Mark: IHABITAT
)	
v.)	Opposition No. _____
)	
TAMERA Z. FLETCHER,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Habitat for Humanity International, Inc. will be damaged by the registration of the IHABITAT mark underlying Application Serial No. 77/821,343 and states the following for its Notice of Opposition to that application:

1. Opposer Habitat for Humanity International, Inc. (“HFHI” or “Opposer”) is a Georgia non-profit organization with a principal place of business at 270 Peachtree Street NW, Suite 1300, Atlanta, Georgia 30303. HFHI is an ecumenical Christian housing ministry whose mission is to address the problems of poverty and homelessness and make decent shelter a matter of public action.

2. HFHI is a worldwide, grassroots movement that has a presence in more than 90 countries, including over 1,500 affiliates in all 50 states of the United States, the District of Columbia, Guam, and Puerto Rico. For the past 30 years, HFHI and its affiliates have invested a substantial amount of time, effort, and money in promoting the internationally famous and well-known Habitat For Humanity organization.

3. Beginning in the 1970s, more than 30 years prior to the September 7, 2009 filing date of Applicant’s application, HFHI’s predecessors-in-interest started HFHI to provide

affordable housing to families in need. Since its start in the 1970s, HFHI has helped to build more than 300,000 houses worldwide, providing more than 1.5 million people with homes.

4. HFHI recruits volunteers to work with future homeowners to build or renovate homes. The homes are sold to families for zero profit and HFHI assists its homeowners with down payments and offers financing through affordable loans. The homeowners' monthly mortgage payments are used to build additional houses through HFHI.

5. HFHI also widely promotes its mission by generous donations and fundraising efforts among its affiliates and corporate sponsors. HFHI raises money from a variety of sources including individual donations, planned giving, corporate sponsorships, and governmental and non-profit grants and partnerships. HFHI has thousands of corporate partners, including numerous Fortune 500 companies such as Bank of America, Delta Air Lines, Cisco Systems, CitiBank, Dow Chemical Company, The Home Depot, and State Farm Mutual Insurance Company, among many others. Many of these companies donate employee time and other goods and services, in addition to monetary contributions.

6. Also contributing to the worldwide acclaim of HFHI is the Carter Work Project. In 1984, President Jimmy Carter and his wife Rosalynn led a renovation project in New York City through HFHI. Since that time, the Carters have sponsored an annual week-long project at different locations around the world.

7. HFHI is the owner of the following United States trademark registrations:

Mark	Goods & Services	Date of First Use/ Priority Date
HABITAT FOR HUMANITY Reg. No. 2169719	Charitable fund raising services, in International Class 36	Aug. 18, 1997

HABITAT FOR HUMANITY Reg. No. 2976273	Series of books featuring inspiration essays about building a fulfilling and productive life and a series of books on the history of the applicant and its work around the world, in International Class 16; and Shirts, sweaters, pants, shorts, coats and jackets, footwear, caps, hats, bandanas, children's cloth eating bibs, coveralls, foul weather gear, gloves, hat bands, head bands, headwear, infantwear, jumpers, kerchiefs, loungewear, neckerchiefs, neckties, neckwear, overalls, pajamas, pocket squares, rainwear, scarves, sleepwear, socks, sweat bands, sweat suits, ties, tracksuits, uniforms, vests, visors, warm-up suits and wrist bands, in International Class 25	Aug. 5, 2004
HABITAT FOR HUMANITY Reg. No. 1473529	Renovation and construction of residential housing for the needy, in International Class 37	October 1975
HABITAT FOR HUMANITY (& Design) Reg. No. 3370179	Shirts, jackets, caps, hats, children's cloth eating bibs, headwear, infantwear, rainwear, visors, in International Class 25; Charitable fund raising services and mortgage lending services, in International Class 36; and Renovation and construction of residential housing in International Class 37	July 9, 2004
HABITAT FOR HUMANITY (& Design) Reg. No. 3340897	Shirts, jackets, caps, hats, children's cloth eating bibs, headwear, infantwear, rainwear, visors, in International Class 25; Charitable fund raising services and mortgage lending services, in International Class 36; and Renovation and construction of residential housing in International Class 37	July 9, 2004

True and correct copies of these registrations are attached hereto as **Exhibit A**.

8. In addition to using its registered marks, since prior to the filing date of Applicant's application, HFHI also has used unregistered marks in connection with its goods and services, including the following: HABITAT FOR HUMANITY, HABITAT, HABITAT FOR

HUMANITY UNIVERSITY, HABITAT WORLD, HABITAT ATLAS, HABITAT.ORG, HABITAT GIFT, and HABITAT STORE (collectively, HFHI's registered and unregistered marks containing the term HABITAT are referred to as the "HABITAT Marks").

10. Taken together, HFHI's marks based on the HABITAT element constitute a family of marks. Beginning over 30 years ago, Opposer and its predecessors have expended considerable sums of money and effort into developing international brand recognition for its family of HABITAT Marks.

11. As a result of widespread advertising and promotion by Opposer and its predecessors, the marks making up Opposer's family of HABITAT Marks acquired a high degree of recognition, fame, and distinctiveness as symbols of the high quality products and services offered by Opposer prior to the filing date of Applicant's application. The public and trade are familiar with and identify Opposer's marks with Opposer and, by reason of this identification, goods and services associated with the marks are understood by the public and trade to be produced, marketed, and supplied under Opposer's authority, or otherwise derived from Opposer.

12. The marks making up HFHI's family of HABITAT Marks are important factors employed by the public in identifying the source of HFHI's products and services and are distinctive of those products and services. As a result of their fame and notoriety, HFHI's marks are entitled to a broad scope of protection.

13. On September 7, 2009, Applicant filed application Serial No. 77/821343 to register the IHABITAT mark on the Principal Register, which was published for opposition for "providing a web site that features an on-line market for users to list offered or wanted personal

and business assets and skills for hire, rent, sale or auction transacted on the basis of predefined performance and closing terms and conditions” in International Class 35.

14. The word IHABITAT in the mark that Applicant seeks to register is nearly identical in appearance, sound, meaning, and commercial impression to the salient element of Opposer’s HABITAT Marks, and will be used for services related to the goods and services for which Opposer uses its family of HABITAT marks.

15. When taken as a whole, Applicant’s mark is substantially similar in sound, meaning, and commercial impression to the salient element of Opposer’s HABITAT Marks, and will be used for services that are related to the goods and services for which Opposer uses its family of HABITAT Marks.

16. Based on the similarities of the marks and the goods and services, the relevant public is likely to be confused into believing that Applicant’s services, as offered under the IHABITAT mark, emanate from Opposer, or are authorized, licensed, endorsed, or sponsored by Opposer. Registration of Applicant’s mark on the Principal Register thus would be inconsistent with Opposer’s prior rights in its family of well-known HABITAT Marks.

17. Based on the fact that Opposer routinely promotes goods and services that are related to the services underlying Applicant’s application, the relevant public is likely to be confused into believing that Applicant’s services, as offered under the IHABITAT mark, emanate from Opposer, or are authorized, licensed, endorsed, or sponsored by Opposer.

18. Opposer will be damaged by the registration of Applicant’s IHABITAT mark because it so resembles Opposer’s previously used and well-known marks as to be likely, when used on or in connection with the services identified in the subject application, to cause

confusion, or to cause mistake, or to deceive in violation of section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

19. Opposer will be damaged by the registration of Applicant's IHABITAT mark because the mark is likely to dilute the distinctiveness of the famous marks making up Opposer's family of HABITAT Marks by eroding consumers' exclusive identification of these marks with Opposer, and/or by tarnishing and degrading the positive associations and prestigious connotations of these famous marks, and/or by otherwise lessening the capacity of the marks to identify and distinguish Opposer's goods and services in violation of section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

21. Opposer therefore requests that registration of the mark underlying Application Serial No. 77/821,343 be refused and this Notice of Opposition be sustained in Opposer's favor.

Respectfully submitted,

/Lauren T. Estrin/

Alex S. Fonoroff

Lauren T. Estrin

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Attorneys for Opposer

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

HABITAT FOR HUMANITY)	
INTERNATIONAL, INC.,)	In re Serial No. 77/821343
)	
Opposer,)	Mark: IHABITAT
)	
v.)	Opposition No. _____
)	
TAMERA Z. FLETCHER,)	
)	
Applicant.)	

CERTIFICATE OF SERVICE

This is to certify that the foregoing Notice of Opposition was served on Applicant by depositing a copy in the United States mail as first-class mail, postage pre-paid, addressed as follows:

Tamera Z. Fletcher
28445 Jolly Roger Drive
Little Torch Key, FL 33042

This 2nd day of June 2010.

/Lauren T. Estrin/
Lauren T. Estrin

EXHIBIT A

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,169,719

United States Patent and Trademark Office

Registered June 30, 1998

**SERVICE MARK
PRINCIPAL REGISTER**

HABITAT FOR HUMANITY

HABITAT FOR HUMANITY INTERNATIONAL,
INC. (GEORGIA NONPROFIT CORPORATION)
121 HABITAT STREET
AMERICUS, GA 31709

FOR: CHARITABLE FUND RAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-0-1975; IN COMMERCE 10-0-1975.

OWNER OF U.S. REG. NO. 1,473,529.

SER. NO. 75-342,796, FILED 8-18-1997.

TRICIA SONNEBORN, EXAMINING ATTORNEY

Int. Cls.: 16 and 25

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, 39 and 50

United States Patent and Trademark Office

Reg. No. 2,976,273

Registered July 26, 2005

**TRADEMARK
PRINCIPAL REGISTER**

**HABITAT FOR
HUMANITY**

HABITAT FOR HUMANITY INTERNATIONAL,
INC. (GEORGIA NON-PROFIT ORGANIZA-
TION)

121 HABITAT STREET
AMERICUS, GA 31709

FOR: SERIES OF BOOKS FEATURING INSPIRA-
TION ESSAYS ABOUT BUILDING A FULFILLING
AND PRODUCTIVE LIFE AND A SERIES OF
BOOKS ON THE HISTORY OF THE APPLICANT
AND ITS WORK AROUND THE WORLD, IN CLASS
16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 0-0-1977; IN COMMERCE 0-0-1977.

FOR: SHIRTS, SWEATERS, PANTS, SHORTS,
COATS AND JACKETS, FOOTWEAR, CAPS, HATS,
BANDANAS, CHILDREN'S CLOTH EATING BIBS,
COVERALLS, FOUL WEATHER GEAR, GLOVES,
HAT BANDS, HEAD BANDS, HEADWEAR, IN-
FANTWEAR, JUMPERS, KERCHIEFS, LOUNGE-

WEAR, NECKERCHIEFS, NECKTIES,
NECKWEAR, OVERALLS, PAJAMAS, POCKET
SQUARES, RAINWEAR, SCARVES, SLEEPWEAR,
SOCKS, SWEAT BANDS, SWEAT SUITS, TIES,
TRACKSUITS, UNIFORMS, VESTS, VISORS,
WARM-UP SUITS AND WRIST BANDS, IN CLASS
25 (U.S. CLS. 22 AND 39).

FIRST USE 0-0-1995; IN COMMERCE 0-0-1995.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,473,529 AND
2,169,719.

SER. NO. 78-462,748, FILED 8-5-2004.

ELLEN B. AWRICH, EXAMINING ATTORNEY

Int. Cl.: 37

Prior U.S. Cl.: 103

United States Patent and Trademark Office

Reg. No. 1,473,529

Registered Jan. 19, 1988

**SERVICE MARK
PRINCIPAL REGISTER**

HABITAT FOR HUMANITY

HABITAT FOR HUMANITY, INC. (GEORGIA
CORPORATION)
HABITAT AND CHURCH STREETS
AMERICUS, GA 31709

FIRST USE 10-0-1975; IN COMMERCE
10-0-1975.

SER. NO. 661,630, FILED 5-18-1987.

FOR: RENOVATION AND CONSTRUCTION
OF RESIDENTIAL HOUSING FOR THE
NEEDY, IN CLASS 37 (U.S. CL. 103).

R. ELLSWORTH WILLIAMS, EXAMINING AT-
TORNEY

Int. Cls.: 25, 36, and 37

Prior U.S. Cls.: 22, 39, 100, 101, 102, 103, and 106

United States Patent and Trademark Office

Reg. No. 3,370,179

Registered Jan. 15, 2008

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**



HABITAT FOR HUMANITY INTERNATIONAL,
INC. (GEORGIA NON-PROFIT CORPORATION)
121 HABITAT STREET
AMERICUS, GA 31709

FOR: SHIRTS, JACKETS, CAPS, HATS, CHILDREN'S CLOTH EATING BIBS, HEADWEAR, INFANTWEAR, RAINWEAR, VISORS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 5-2-2005; IN COMMERCE 5-2-2005.

FOR: CHARITABLE FUND RAISING SERVICES AND MORTGAGE LENDING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-2-2005; IN COMMERCE 5-2-2005.

FOR: RENOVATION AND CONSTRUCTION OF RESIDENTIAL HOUSING, IN CLASS 37 (U.S. CLS. 100, 103 AND 106).

FIRST USE 5-2-2005; IN COMMERCE 5-2-2005.

OWNER OF U.S. REG. NOS. 1,473,529 AND 2,169,719.

THE MARK CONSISTS OF THREE FIGURES FORMING A HOUSE WITH THE WORDS HABITAT FOR HUMANITY BELOW THE DESIGN.

SN 78-448,424, FILED 7-9-2004.

ELLEN B. AWRICH, EXAMINING ATTORNEY

Int. Cls.: 25, 36, and 37

Prior U.S. Cls.: 22, 39, 100, 101, 102, 103, and 106

United States Patent and Trademark Office

Reg. No. 3,340,897

Registered Nov. 20, 2007

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**



HABITAT FOR HUMANITY INTERNATIONAL,
INC. (GEORGIA NON-PROFIT CORPORATION)
121 HABITAT STREET
AMERICUS, GA 31709

FOR: SHIRTS, JACKETS, CAPS, HATS, CHILDREN'S CLOTH EATING BIBS, HEADWEAR, INFANTWEAR, RAINWEAR, VISORS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 5-2-2005; IN COMMERCE 5-2-2005.

FOR: CHARITABLE FUND RAISING SERVICES AND MORTGAGE LENDING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-2-2005; IN COMMERCE 5-2-2005.

FOR: RENOVATION AND CONSTRUCTION OF RESIDENTIAL HOUSING, IN CLASS 37 (U.S. CLS. 100, 103 AND 106).

FIRST USE 5-2-2005; IN COMMERCE 5-2-2005.

OWNER OF U.S. REG. NOS. 1,473,529 AND 2,169,719.

THE MARK CONSISTS OF THREE FIGURES FORMING A HOUSE WITH THE WORDS HABITAT FOR HUMANITY ADJACENT TO THE DESIGN.

SN 78-448,417, FILED 7-9-2004.

ELLEN B. AWRICH, EXAMINING ATTORNEY